

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000-14th STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)	DATE: October 3, 2003
)	
Gary Garland)	DOCKET NO.: 03F-197
Assistant Fire Chief of Services (Former))	
DC Fire and Emergency Medical Services)	
46 Christopher Place)	
Riverdale, Georgia 30274)	

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of General Counsel following a determination by its Public Information Records Management Division, that pursuant to the D.C. Code §1-1106.02 (2001 Edition), Gary Garland, Assistant Fire Chief of Services, DC Fire and Emergency Medical Services, failed to timely file, a Financial Disclosure Statement for calendar year 2002, on or before May 15, 2003 as required by D.C. Official Code §1-1106.02 and also failed to file on or before the OCF sanctioned extended filing deadline of June 19, 2003.

By Notice of Hearing, Statement of Violations and Order of Appearance dated August 11, 2003, OCF ordered Gary Garland (hereinafter respondent), to appear at a scheduled hearing on August 26, 2003 and show cause why he should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

OCF alleges that the respondent failed to timely file the statutorily required Financial Disclosure Statement for calendar year 2002, on or before June 19, 2003.

On August 21, 2003, respondent filed an affidavit with OCF stating he was not aware of the requirement to file a final Financial Statement with OCF. Respondent stated he resigned his position in May 2002, and that his Department did not forward an FDS in his separation package. Respondent enclosed a copy of his letter of resignation to the Director of Personnel dated May 10, 2002. Respondent filed a fully executed Financial Disclosure Statement with OCF on August 21, 2003.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent timely filed a Financial Disclosure Statement with OCF in May 2002.
2. Respondent resigned his position with the District Government in May 2002.
3. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2002, on or before June 19, 2003.
4. Respondent filed the required Financial Disclosure Statement on August 21, 2003.
5. Respondent has no history of prior filing delinquencies.
6. Respondent's explanation for the delinquent filing is credible in that he believed he was not required to file a final FDS because he had left government service, and that an FDS was not included in his separation package.
7. OCF provided notice to file if the filer ceases to serve prior to May 15th of any year, and within 30 days of any change in information on its Financial Disclosure Statement form.
8. Respondent is currently in compliance with the statute.

Conclusions of Law

Based upon the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3DCMR §§3711.2(aa), 3711.2 and 3711.4 for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.
3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$2,000.00 for failing to timely file a Financial Disclosure Statement.

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4. For good cause shown pursuant to 3DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent's explanation for failing to timely file constitutes good cause for suspension of the fine.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine in this matter.

Date

**Jean Scott Diggs
Hearing Officer**

Concurrence

In view of the foregoing, I hereby concur with the Recommendation.

Date

**Kathy S. Williams
General Counsel**

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine be hereby suspended in this matter.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order.

Rose Rice
Legal Assistant

NOTICE

Pursuant to 3 DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000-14th Street, N.W., Washington, D.C. 20009.